

## Message Text

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ACTION STR-07

INFO OCT-01 ARA-10 IO-13 ISO-00 STRE-00 TRSY-02  
AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 EB-08  
FRB-03 H-01 INR-10 INT-05 L-03 LAB-04 NSAE-00  
NSC-05 PA-01 CTME-00 AID-05 SS-15 ITC-01 ICA-11  
SP-02 SOE-02 OMB-01 DOE-15 OIC-02 /128 W  
-----086384 122118Z /64

R 121854Z MAY 78

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 0187

INFO USMISSION GENEVA

AMEMBASSY CARACAS

AMEMBASSY BUENOS AIRES

AMCONSUL SAO PAULO

AMCONSUL RIO DE JANEIRO

AMEMBASSY BRASILIA

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PASS STR ELECTRONICALLY

GENEVA FOR MTN

EO 11652: N/A

TAGS: ETRD, MTN, BR

SUBJECT: US/BRAZIL SUB-GROUP ON TRADE (AFTERNOON SESSION,  
MAY 8) - REVISED AND FINAL VERSION

1. SUMMARY. AFTERNOON SESSION OF FIRST DAY OF U.S.-  
BRAZIL SUB-GROUP ON TRADE FOCUSED ON FURTHER DISCUSSIONS  
OF BRAZIL'S GUIDELINES FOR PREPARATION OF ITS OFFER AND  
THEIR IMPACT ON U.S. REQUEST LIST, OPERATION OF BRAZIL'S  
IMPORT LICENSE SYSTEM AS IT WOULD RELATE TO MTN TARIFF  
CONCESSIONS, GATT REFORM, AND SUBSIDIES/CVD CODE. U.S.  
EMPHASIZED NECESSITY FOR BRAZIL TO BE RESPONSIVE TO U.S.  
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REQUESTS AND IN GENERAL TO BE FORTHCOMING IN MTN OR RISK  
REDUCTION IN U.S. OFFERS OF INTEREST TO BRAZIL. WE  
STRESSED THAT FAILURE OF MTN EXERCISE WAS IN NO ONE'S  
INTEREST. DISCUSSION OF GATT REFORM (LARGELY ENABLING  
CLAUSE, AND GSP) BINDINGS AND SUBSIDIES/CVD CODE SHOWED  
THAT TWO SIDES WERE STILL FAR APART IN THEIR FORMAL  
POSITIONS. FOLLOWING DISCUSSIONS DURING MINISTERIAL CALLS

AND INFORMAL EVENTS, IT BECAME EVIDENT THAT BRAZILIANS HAD MORE GIVE IN THEIR POSITIONS THAN THEIR FORMAL POSITIONS INDICATE. U.S. STRESSED URGENCY OF FORWARD MOVEMENT IN MTN NEGOTIATIONS IN ORDER TO BE ABLE TO PRESENT MTN RESULTS TO CONGRESS BEFORE U.S. POLITICAL MOOD BECAME TOTALLY UNRECEPTIVE TO TRADE LIBERALIZATION. END SUMMARY.

2. BRAZILIAN MTN NEGOTIATING GUIDELINES. AMB. WOLFF (STR) SAID U.S. REGARDED BRAZIL'S DEVELOPMENT OF GENERAL GUIDELINES FOR PREPARING ITS OFFER (SEE CABLE REPORT ON MORNING SESSION) AS A POSITIVE STEP. HE URGED THAT GUIDELINES BE USED FLEXIBLY, SINCE AS DESCRIBED THEY WOULD NOT LEAD TO ADEQUATE RESPONSES TO U.S. REQUESTS. THE MAINTENANCE OF U.S. OFFERS OF INTEREST TO BRAZIL WOULD DEPEND ON BRAZIL'S MEETING U.S. REQUESTS. IF THIS DID NOT PROVE TO BE POSSIBLE FROM THE BRAZILIAN POINT OF VIEW, U.S. WOULD HAVE NO CHOICE BUT TO REDUCE THE SCOPE OF ITS OFFER; TO DO OTHERWISE WOULD BE POLITICALLY UNACCEPTABLE IN THE U.S.

3. BOTAFOGO (GOB FONMIN) TOOK POSITION THAT U.S. LIST

"DID NOT CORRESPOND TO BRAZIL'S POSSIBILITIES" IN REGARD TO ITS OWN DOMESTIC PRESSURES AND ITS DEVELOPMENT PLANS. HE SAID THAT IT WAS TO BE EXPECTED THAT BRAZIL COULD NOT LIMITED OFFICIAL USE

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MEET ALL U.S. REQUESTS, ESPECIALLY GIVEN THE GREAT DEPTH OF CUTS REQUESTED BY U.S. WHICH HE ASSERTED WERE GREATER THAN U.S. HAS OFFERED TO DCS. BOTAFOGO FURTHER SAID THAT GOB ACTIVITY IN THIS AREA WAS COMPLICATED BY THE FACT THAT BRAZIL EXPECTED IMPORTANT BENEFITS FROM THE NON-TARIFF AND NORMATIVE ASPECTS OF THE MTN, AND THEREFORE FOUND IT EXTREMELY DIFFICULT TO OFFER CONCRETE AND SIGNIFICANT TARIFF CONCESSIONS UNTIL THE SCOPE OF BRAZIL'S BENEFITS FROM OTHER AREAS OF MTN WAS KNOWN.

4. HARTZELL (USMTN) RECALLED LAST U.S.-BRAZIL ARTICLE XXVIII DISCUSSIONS IN GENEVA, WHERE BRAZIL INDICATED VIRTUALLY NO POSSIBILITY OF CONCESSIONS BECAUSE OF DOMESTIC PRODUCTION AND DEVELOPMENT PLANS. HE SOUGHT CONFIRMATION THAT NEW GUIDELINES REPRESENTED GENUINE DEPARTURE FROM THAT POSITION AND WOULD THUS LEAD TO RESULTS. BRAZILIANS RESISTED THAT CHARACTERIZATION BUT SUBSEQUENTLY, PRIVATELY, CONFIRMED THAT NEW APPROACH WAS A SIGNIFICANT CHANGE WHICH HAD BEEN APPROVED IN MINISTERIAL SESSION ONLY THE PREVIOUS FRIDAY.

5. BRAZIL'S IMPORT LICENSE SYSTEM AND MTN CONCESSIONS.

THERE WAS INTENSIVE DISCUSSION REGARDING BRAZIL'S IMPORT  
LICENSE SYSTEM AND THE U.S. CONCERN THAT TARIFF CON-  
CESSIONS WON IN THE MTN COULD BE NEGATED BY BRAZIL'S  
REFUSAL TO GRANT IMPORT LICENSES. PROENCA ROSA (GOB  
FONMIN) AND BOTAFOGO BOTH ATTEMPTED TO EXPLAIN THAT EXCEPT  
IN THREE SPECIFIC SECTORS (STEEL PRODUCTS, COMPUTERS,  
AND AIRCRAFT), GOB IMPORT LICENSES ("PERMITS") WERE  
AUTOMATICALLY GRANTED AND WERE USED FOR STATISTICAL PUR-  
POSES RATHER THAN TO RESTRAIN TRADE. IN THE THREE  
SECTORS, LICENSES WERE DISCRETIONARY TO "DISCIPLINE" THE  
IMPORT MARKET, AND TO ENCOURAGE DOMESTIC INDUSTRIAL  
GROWTH ON A SECTOR-BY-SECTOR BASIS. BOTAFOGO STATED THAT  
NO GATT JUSTIFICATION FOR THESE ACTIVITIES WAS NEEDED.  
BRAZILIANS ALSO STATED THAT THE TREND WAS FOR IMPORT  
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SP-02 SOE-02 OMB-01 DOE-15 OIC-02 /128 W  
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R 121854Z MAY 78  
FM AMEMBASSY MEXICO  
TO SECSTATE WASHDC 0188  
INFO USMISSION GENEVA  
AMEMBASSY CARACAS  
AMEMBASSY BUENOS AIRES  
AMCONSUL SAO PAULO  
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LICENSE SYSTEM TO BECOME LESS IMPORTANT. BOTAFOGO

ADMITTED, HOWEVER, THAT IMPORT LICENSES FOR SOME PRODUCTS WERE TEMPORARILY SUSPENDED FOR BOP REASONS; TRADE COVERAGE OF THESE SUSPENSIONS HAD DROPPED FROM \$580 M IN 1976 TO SOME \$300 M AT PRESENT.

6. U.S. CONCERN ON IMPORT LICENSE QUESTION, AS EXPRESSED BY AMB. WOLFF, BARRACLOUGH (STATE/EB), MONTGOMERY (USDOC) AND HARTZELL, WAS THAT TARIFF CONCESSIONS GRANTED BY BRAZIL THROUGH MTN EXERCISE NOT BE NEGATED AT SOME FUTURE TIME BY GOB REFUSAL TO GRANT IMPORT LICENSES. AMB. WOLFF SAID THAT A COMMITMENT BY BRAZIL THAT IMPORT LICENSES WOULD INDEED BE AUTOMATIC WOULD BE SEEN BY THE U.S. AS AN IMPORTANT BRAZILIAN CONTRIBUTION. LANDE (STR) ASKED WHETHER U.S. HAD ASSURANCE THAT SPECIAL LICENSING REQUIREMENTS WOULD NOT BE EXTENDED BEYOND THE CURRENT THREE PRODUCT SECTORS. BOTAFOGO REPLIED THAT NO EXTENDED OFFICIAL USE

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SIONS WERE PRESENTLY CONTEMPLATED. HARTZELL POINTED OUT THAT ACCORDING TO GATT, BOP IMPORT RESTRAINTS WERE SUPPOSED TO BE APPLIED ACROSS-THE-BOARD, BUT THAT BRAZIL'S PRODUCT-BY-PRODUCT APPLICATION MADE IT DIFFICULT FOR U.S. TO KNOW WHERE BRAZIL WAS GOING AND WHAT THE IMPACT WOULD BE ON PRODUCT-SPECIFIC MTN CONCESSIONS. AMB. WOLFF POINTED OUT THAT QUANTITATIVE RESTRICTIONS (SUCH AS BRAZILIAN EMBARGO ON LIGHT AIRCRAFT) MUST BE JUSTIFIED UNDER GATT. AMB. WOLFF ASKED BRAZILIANS TO INDICATE AT NEXT MEETING JUST WHAT SITUATION EXISTED REGARDING IMPORT PERMITS FOR PRODUCTS ON U.S. REQUEST LIST. HE ALSO ASKED FOR VERIFICATION OF BRAZILIAN TARIFF RATES U.S. WAS USING TO CALCULATE ITS REQUESTS. BRAZILIANS SAID THEY WOULD DO SO. (EMBASSY COMMENT: GOB IMPORT LICENSES ARE NOT, IN FACT, AUTOMATIC. USDEL AT THIS POINT IN DISCUSSION CONCENTRATED ON TARIFF CONCESSION/IMPORT LICENSE LINKAGE. END COMMENT.)

7. GATT REFORM. BRAZILIAN POSITION IN THIS AREA WAS LARGELY PRESENTED BY BARTHEL ROSA (BRAZDEL GENEVA) WHO EXPLAINED IN SOME DETAIL BRAZIL'S POSITION ON GATT REFORM. HE STARTED OFF BY SAYING THAT PROGRESS IN THIS AREA WOULD BE CRITICAL IN REGARD TO BRAZIL'S ASSESSMENT OF MTN FINAL RESULTS, BUT HE SAID THAT HE FELT "WE WERE CLOSE TO A DRAFTING EXERCISE."

8. BARTHEL ROSA EMPHASIZED THE FIVE POINTS ON GATT REFORM BRAZIL REGARDED AS ESSENTIAL: (A) THE GENERAL ENABLING CLAUSE SHOULD ESTABLISH A STANDING LEGAL BASIS FOR S&D WHICH WOULD BE NON-DISCRIMINATORY, COVER BOTH TARIFF AND NON-TARIFF MEASURES, INCLUDE GREATER GSP SECURITY, AND ACCEPTANCE OF NOTIFICATION AND CONSULTATIVE FEATURES. (B) DC BOP MEASURES SHOULD IN GENERAL EXCLUDE LDCE, AND RECOGNIZE THE GENERAL BOP PROBLEM FACED BY LDCE. GATT

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CONSULTATION PROCEDURES SHOULD BE IMPROVED. (C) ECONOMIC DEVELOPMENT SAFEGUARDS UNDER ARTICLE XVIII: A AND C SHOULD HAVE MORE AMPLE LEGAL JUSTIFICATION (NOT LIMITED TO INFANT INDUSTRY). (D) DISPUTE MANAGEMENT MEASURES SHOULD INCLUDE EFFECTIVE NOTIFICATION PROCEDURES, FLEXIBLE BUT EFFECTIVE CONSULTATION PROCEDURES, THE INTRODUCTION OF SEMI-AUTOMATIC DISPUTE SETTLEMENT PROCEDURES, AND CLEAR IDENTIFICATION OF RIGHTS AND OBLIGATIONS OF PARTIES. (E) CONCEPT OF RECIPROCITY SHOULD INCLUDE A FIRMER DEFINITION OF THE PRINCIPLE OF RELATIVE RECIPROCITY AND GUIDELINES FOR ITS APPLICATION IN FUTURE NEGOTIATIONS.

9. AMB. WOLFF NOTED IMPORTANCE U.S. ATTACHED TO EXPORT CONTROLS TOPIC ALSO, BUT DISCUSSION ON BARTHEL ROSA'S PRESENTATION CENTERED LARGELY ON THE AREAS OF ENABLING CLAUSE AND GSP. AMB. WOLFF STATED U.S. POSITION THAT S&D SHOULD NOT IMPEDE REDUCTION OF BARRIERS ON MFN BASIS AND THAT LDCS SHOULD PARTICIPATE MORE FULLY IN THE TRADING SYSTEM OVER TIME, I.E., FOREGO S&D. HE QUESTIONED WHETHER THE ENABLING CLAUSE SHOULD COVER GSP. BARTHEL ROSA REPLIED THAT THE ENABLING CLAUSE WOULD REPLACE THE GSP WAIVER. QUESTIONING FROM LANDE ELICITED COMMENT FROM BARTHEL ROSA THAT BRAZIL IN CERTAIN CASES WOULD PREFER BOUND PREFERENTIAL CONCESSIONS TO UNILATERAL GSP DESIGNATIONS. THERE WAS DISCUSSION ON WHETHER GSP WOULD BE SUBJECT TO FUTURE MULTILATERAL REVIEWS (UNCTAD, GATT) IF IT WAS COVERED BY ENABLING CLAUSE. DURING INFORMAL CONVERSATION, BARTHEL ROSA STATED THAT HE DID NOT RULE OUT ENABLING CLAUSE WHERE GSP WOULD STILL BE MULTILATERALLY REVIEWED. IN FACT BARTHEL ROSA INDICATED THAT IN VIEW OF TIME FRAME, GSP RENEWAL ISSUE WOULD HAVE TO BE ADDRESSED IN 1981 WHEN TEN-YEAR PERIOD EXPIRES.

10. SUBSIDIES/CVD CODE. AMB. WOLFF STRESSED THAT THIS WAS NOT ONLY ONE OF THE MOST IMPORTANT AREAS OF MTN, BUT

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R 121854Z MAY 78  
FM AMEMBASSY MEXICO  
TO SECSTATE WASHDC 0189  
INFO USMISSION GENEVA  
AMEMBASSY CARACAS  
AMEMBASSY BUENOS AIRES  
AMCONSUL SAO PAULO  
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AMEMBASSY BRASILIA

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IN VIEW OF TIME FRAME, GSP RENEWAL  
ADDRESSED IN 1981 WHEN TEN-YEAR PERIOD EXPIRES.

10. SUBSIDIES/CVD CODE. AMB. WOLFF STRESSED THAT THIS WAS NOT ONLY ONE OF THE MOST IMPORTANT AREAS OF MTN, BUT ALSO THE MOST DIFFICULT SINCE THERE WAS LITTLE COMMON GROUND. HE GENERALLY DESCRIBED U.S. "TWO-TRACK" APPROACH TO THIS ISSUE, ONE THAT WOULD ALLOW CVD BOTH WITH AN INJURY TEST AND ALSO ALLOW IMPORTING COUNTRIES TO TAKE ACTION EVEN WITHOUT INJURY FINDING ON BASIS OF NULLIFICATION/IMPAIRMENT PROCEEDING. HE SAID U.S. WAS ALSO CONCERNED ABOUT POSSIBLE EFFECT OF SUBSIDIES ON TARIFF BINDINGS AND DISRUPTION OF THIRD COUNTRY MARKETS. IN REGARD TO APPLICABILITY OF THIS CODE TO NON-SIGNATORIES, AMB. WOLFF STATED THAT U.S. HAD NOT THOUGHT THIS THROUGH COMPLETELY, BUT THAT U.S. THINKING WAS THAT CODE BENEFITS LIMITED OFFICIAL USE

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SHOULD ONLY APPLY TO CODE SIGNATORIES.

11. DORNELLES (GOB FINMIN) RESPONDED BY SAYING THAT BRAZIL'S INTEREST WAS NOT IN SUBSIDIES OR CVDS PER SE, BUT IN INCREASING EXPORTS, AND BRAZIL WANTED TO KEEP AS MUCH FREEDOM REGARDING SUBSIDIES AS POSSIBLE. KEY POINT FOR BRAZILIANS, ACCORDING TO DORNELLES, IS INJURY CLAUSE. HE NOTED THAT THERE SHOULD BE A POSITIVE LIST OF LDC SUBSIDY PRACTICES THAT WOULD NOT BE SUBJECT TO CVD ACTION, EVEN IF INJURY RESULTED IN THE IMPORTING MARKET. FOR OTHER SUBSIDIES IMPORTING COUNTRIES SHOULD BE ABLE TO COUNTERVAIL ONLY WHEN SERIOUS INJURY IS PROVEN. IN ADDITION, CVDS SHOULD NOT BE APPLIED AGAINST PRODUCTS

ALREADY COVERED BY TRADE-RESTRICTING AGREEMENTS (I.E., MFA). NO ACTIONS SHOULD BE TAKEN BY DCS AGAINST LDCS FOR DAMAGE TO THIRD MARKETS, NOR SHOULD CVDS BE APPLIED FOR LDC ACTIONS TAKEN TO PROMOTE IMPORT SUBSTITUTION. IN ALL CASES, PRIOR CONSULTATION WOULD BE REQUIRED. (COMMENT: THIS CLOSELY FOLLOWS BRAZIL'S 1975 SUBSIDY/CVD PROPOSAL IN THE MTN. END COMMENT.) DORNELLES SAID THAT GATT RULES REQUIRE PROOF OF INJURY BEFORE CVD CAN BE APPLIED, AND THAT ACCEPTANCE OF U.S. POSITION WOULD BE "A STEP BACKWARDS."

12. AMB. WOLFF REPLIED THAT OFFSETTING MEASURES COULD BE APPLIED WITHOUT INJURY UNDER GATT ARTICLE XXIII. WHAT WE NEEDED IN A CODE WAS NEW DISCIPLINE ON THE USE OF SUBSIDIES TO AVOID TRADE PROBLEMS IN THE NEAR FUTURE. BRAZIL MUST LOOK AT SUBSIDIES/CVD CODE IN LIGHT OF WHAT FREEDOM IT WANTS TO KEEP AND WHAT OBLIGATIONS IT CAN EXPECT TO ASSUME.

13. FOLLOWING DEPARTURE OF AMB. WOLFF FOR MEETING WITH LIMITED OFFICIAL USE

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MINISTER OF INDUSTRY AND COMMERCE CALMON DE SA, DISCUSSION OF SUBSIDIES/CVD CODE CONTINUED FOR APPROXIMATELY ONE HOUR. DORNELLES REITERATED GOB OBJECTIVE OF EXPANDING AND DIVERSIFYING EXPORTS AND COB DESIRE TO AVOID TO THE EXTENT POSSIBLE ANY MODIFICATIONS IN EXISTING EXPORT INCENTIVES. HE INSISTED ON NEED FOR AN INJURY TEST IN ORDER TO BE CONSISTENT WITH GATT AND HE PRESSED FOR MORE DETAILS ON U.S. THINKING ON SUBSIDIES CODE. MESSRS. LANDE, HARTZELL, AND SCHOTT EXPLAINED U.S. DESIRE TO DEVELOP NEW RULES AND DISCIPLINE ON SUBSIDIES. SCHOTT POINTED OUT DIFFICULTIES WE HAVE HAD IN RESOLVING DIFFERENCES WITH EEC AND DEFINING APPROPRIATE DEGREE OF OBLIGATIONS AND COMMITMENTS TO BE UNDERTAKEN BY LDCS. MR. LANDE STRESSED NEED FOR MOVING FROM EXTREME POSITIONS TOWARD PRAGMATIC AND POLITICALLY ACCEPTABLE SOLUTIONS. MR. HARTZELL OBSERVED THAT BRAZILIAN DESIRE FOR MAJOR CONCESSIONS FROM U.S. WOULD REQUIRE COMPENSATING STEPS BY BRAZIL TO UNDERTAKE SOME OBLIGATIONS IN A CODE. MR. DORNELLES ASKED IF U.S. COULD PRESENT DRAFT OF U.S. POSITION AS BASIS FOR DISCUSSION. AMB. WOLFF LATER RAISED THIS WITH SIMONSEN (SEE SEPTTEL).

14. TIMETABLE AND NEGATIVE POLITICAL PRESSURE. THROUGHOUT AFTERNOON DISCUSSION AMB. WOLFF AND OTHER MEMBERS USDEL STRESSED THE NEED FOR MTN NEGOTIATIONS TO PROCEED EXPEDITIOUSLY IN VIEW OF INCREASING NEGATIVE U.S. POLITICAL PRESSURE. WHEN BRAZILIANS ASKED WHY JULY 15 WAS SUCH AN IMPORTANT TARGET DATE FOR U.S., AMB. WOLFF REPLIED THAT THAT WAS LATEST WE EXPECTED FINAL NEGOTIATIONS TO BE ABLE

TO BEGIN AND LEAD TO A FINAL RESULT THAT COULD BE PRE-  
SENTED TO CONGRESS IN EARLY 1979. AMB. WOLFF CONTINUALLY  
WARNED THAT SUPPORT FOR TRADE LIBERALIZATION WAS WANING  
RAPIDLY IN THE U.S. AND THAT DELAY BEYOND EARLY 1979 IN  
SUBMISSION OF RESULTS TO CONGRESS FOR RATIFICATION  
WOULD INCREASE RISKS OF DEFEAT. HE NOTED THE PARTICULAR  
SENSITIVITY IN THE U.S. TO THE SUBSIDIES/CVD ISSUE AND

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THE FEELING THAT THE U.S. SHOULD "GET SOMETHING" OUT OF  
THE MTN AND NOT JUST GIVE. THOMPSON

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## Message Attributes

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**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** IMPORTS, DIPLOMATIC DISCUSSIONS, GENERALIZED PREFERENCES (TARIFFS), SUBSIDIES, TRADE CONCESSIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 12 may 1978  
**Decaption Date:** 01 jan 1960  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
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